

Fulton County Superior Court
EFILEDMH
Date: 8/7/2017 5:30:46 PM
Cathelene Robinson, Clerk

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

DONNA CURLING, an individual;)

)

COALITION FOR GOOD)

GOVERNANCE, a non-profit corporation)

organized and existing under Colorado)

Law;)

)

DONNA PRICE, an individual;)

)

JEFFREY SCHOENBERG, an individual;)

)

LAURA DIGGES, an individual;)

)

WILLIAM DIGGES III, an individual;)

)

RICARDO DAVIS, an individual;)

)

Plaintiffs,)

)

v.)

)

CIVIL ACTION

FILE NO.: 2017CV292233

BRIAN P. KEMP, in his individual)

capacity and his official capacity as)

Secretary of State of Georgia and)

Chair of the STATE ELECTION BOARD;)

)

**DEMAND FOR
JURY TRIAL**

DAVID J. WORLEY, REBECCA N.)

SULLIVAN, RALPH F. "RUSTY")

SIMPSON, and SETH HARP, in their)

individual capacities and their official)

capacities as members of the STATE)

ELECTION BOARD;)

THE STATE ELECTION BOARD;

RICHARD BARRON, in his individual
capacity and his official capacity as
Director of the FULTON COUNTY
BOARD OF REGISTRATION AND
ELECTIONS;

MARY CAROLE COONEY, VERNETTA
NURIDDIN, DAVID J. BURGE, STAN
MATARAZZO, AARON JOHNSON,
and MARK WINGATE, in their individual
capacities and official capacities as
members of the FULTON COUNTY
BOARD OF REGISTRATION AND
ELECTIONS;

THE FULTON COUNTY BOARD OF
REGISTRATION AND ELECTIONS;

MAXINE DANIELS, in her individual
capacity and her official capacity as
Director of the DEKALB COUNTY
BOARD OF REGISTRATION AND
ELECTIONS;

MICHAEL P. COVENY, ANTHONY
LEWIS, LEONA PERRY, SAMUEL
E. TILLMAN, and BAOKY N. VU
in their individual capacities and official
capacities as members of the DEKALB
COUNTY BOARD OF REGISTRATIONS
AND ELECTIONS;

THE DEKALB COUNTY BOARD OF)
REGISTRATIONS AND ELECTIONS;)

JANINE EVELER, in her individual)
capacity and her official capacity as)
Director of the COBB COUNTY)
BOARD OF ELECTIONS AND)
REGISTRATION;)

PHIL DANIELL, FRED AIKEN, JOE)
PETTIT, JESSICA BROOKS, and)
DARRYL O. WILSON in their individual)
capacities and official capacities as)
members of the COBB COUNTY)
BOARD OF ELECTIONS AND)
REGISTRATION;)

THE COBB COUNTY BOARD OF)
ELECTIONS AND REGISTRATION;)

MERLE KING, in his individual capacity)
and his official capacity as Executive)
Director of the CENTER FOR ELECTION)
SYSTEMS AT KENNESAW STATE)
UNIVERSITY; and)

THE CENTER FOR ELECTION)
SYSTEMS AT KENNESAW STATE)
UNIVERSITY)

Defendants.)

**MOTION FOR LEAVE TO SERVE ELECTION CONTEST DEFENDANTS
AND CANDIDATES BY CERTIFIED PROCESS SERVER**

COME NOW, Plaintiffs in the above-styled case to move this Court respectively to grant them leave to serve Defendants of Counts IV and V of its Complaint (“election contest claims”) and the affected candidates with special process for their election contest claims by certified process server (“Motion”). Furthermore, for the reasons described below, Plaintiffs respectfully request that this Court either grant Plaintiffs’ Motion without further briefing or set an expedited briefing schedule. A proposed order is attached as Exhibit 1.

I. Argument and Citation to Supporting Authority

Georgia Code Section 21-2-524(f) states that Defendants and candidates in election contest claims under Section 21-2-521 shall be served special process by sheriff.

Georgia Code Section 21-2-525(b) states that:

The court having jurisdiction of the action shall have plenary power, throughout the area in which the contested primary or election was conducted, to make, issue, and enforce all necessary orders, rules, processes, and decrees for a full and proper understanding and final determination and enforcement of the decision of every such case, *according to the course of practice in other civil cases under the laws of this state*, or which may be necessary and proper to carry out this chapter[;]

Id. (emphasis added). Georgia Code Section 9-11-4(b) states that, generally in actions of a civil nature, service to defendants may be rendered by certified process server.

Although the sheriff's offices have attempted service and will continue to do so, Plaintiffs seek to supplement this method of service with a private process server to facilitate service of special process in this expedited election contest. For reason of efficiency, Plaintiffs therefore request that this Court grant leave for Defendants and election candidates in their election contest claims to be served by certified process server pursuant to Georgia Code Sections 21-2-525(b) and 9-11-4(b).

Because this matter includes an election contest, Plaintiffs understand that the matter is to be handled with all due expediency. *See* O.C.G.A. 21-2-524 *et seq.* For that reason and because Plaintiffs seek the order requested so as to expedite service to Defendants and the candidates in the election contest, Plaintiffs respectfully request that this Motion be granted without the need for a briefing from Defendants or candidates or, if it deems briefing necessary, that the Court set an expedited briefing schedule.

II. Conclusion

For the foregoing reasons, Plaintiffs respectfully request this Court to grant this Motion.

This 7th day of August 2017.

/s/ Bryan Ward

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EXHIBIT 1

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

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COALITION FOR GOOD)

GOVERNANCE, a non-profit corporation)

organized and existing under Colorado)

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AND ELECTIONS;

THE FULTON COUNTY BOARD OF
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Director of the CENTER FOR ELECTION)
SYSTEMS AT KENNESAW STATE)
UNIVERSITY; and)

THE CENTER FOR ELECTION)
SYSTEMS AT KENNESAW STATE)
UNIVERSITY)

Defendants.)

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR LEAVE
TO SERVE ELECTION CONTEST DEFENDANTS AND CANDIDATES
BY CERTIFIED PROCESS SERVER**

With respect to Plaintiffs' Motion for Leave to Serve Election Contest Defendants
and Candidates by Certified Process Server, it is hereby

ORDERED that Motion for Leave to Serve Election Contest Defendants and
Candidates by Certified Process Server is GRANTED; and

ORDERED that Plaintiffs have leave to serve Defendants of Counts IV and V of
its Complaint ("election contest claims") and the affected candidates with special
process for their election contest claims via certified process server ("Motion").

ORDERED this ____ day of August 2017.

Judge Constance C. Russell

Proposed Order Submitted by:

/s/ Bryan Ward

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